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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jordi Relats

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12/16/2009

THE NATH LAW GROUP

112 South West Street

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EXAMINER

AFTERGUT, JEFF H

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

12/16/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



***Claim Objections***

1. Claims 13-19 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim must refer to back only in the alternative to the claims from which it depends (note that claims 13, 14, 16, and 18 are improper multiple dependent claims as they do not refer back in the alternative). See MPEP § 608.01(n). Accordingly, the claims 13-19 have not been further treated on the merits.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 10-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The applicant now claims obtaining a plurality of flat knitted fabric bands made of polyester threads via a Raschel flat type loom and shaping the flat knitted fabric bands so that the longitudinal ends of each band overlaps at least 50% of a tubular shape from which the protective tube is determined where in the polyester threads of the flat knitted fabric bands are disposed in “comb P-1 and P-2 linking structure in a three combs Raschel loom” , however there is simply not enough disclosure for one skilled in the art to understand exactly what the nature of the Raschel loom is. It is not clear what a three comb Raschel loom is and there is no Figure

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provided or explanation provided with described the same in the original disclosure.

Typical of a Raschel loom is two stitching combs and the presence of a third comb in the structure is not understood. Additionally the description of the comb arrangement as a “comb linking structure” is not clear and concise. How are the three combs linked together? There simply is not enough information for one skilled in the art to understand how to make and/or use the device to manufacture the flat knitted structure with the identified three combs.

With regard to claim 12, it is not known what “linked to stud chain” and “linked to knitting” refer to in the three comb arrangement. The exact nature of the Raschel knitting machine is not clearly and concisely defined in the disclosure and thus it is not known what this language refers to.

4. Claims 10-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 10, line 8, the claim recites that the overlap of the longitudinal ends is “at least 50%”. While the original disclosure defined that the overlapped proportion was between 25-75% (page 8, lines 10-11) and in embodiment 1 which describes the use polyester for P-1 and P-2 in the manufacture of the flat knit on a Raschel machine the ends are overlapped about 50% (page 11, line 7), the specification does NOT provide support for an overlap greater than 75%. The applicant clearly was not in possession of greater than 75% and by not providing an

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upper limit on the range (merely reciting greater than 50%) the applicant is now claiming something which he did not possess at the time the application was filed.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Jeff H. Aftergut/ whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:30-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeff H. Aftergut/  
Primary Examiner  
Art Unit 1791

JHA  
December 11, 2009